One-Price, Square-Dealing,

HARRIS.

CLOTHIER,

ST. LOUIS BLOCK,

MAIN STREET.

It is not often you can hear of a dealer in the Ready Made article of Clothing issue a Challenge to the Custom Tailors to equal with their work the class of goods he is selling, but here is an occasion where you can see it.

Take a stroll about our city, examine the Suits you see your friends have worked a month to pay for; look at the and then come down to our store; and if we can't discount them in STYLE, in FIT, in APPEARANCE, in TEX-TURE, and in PRICE, we will acknowledge the corn, cancel our advertising contracts and retire from business.

You foolish men! who have been paying \$50, \$60 and \$70 for a Suit of Clothes, come and see what we are offering for follows: anywhere from \$22 to \$35, and we will guarantee you will regret your reckless Waste of Wealth, and hereafter buy your Clothing from us.

MILLER HATS.

But another point that will interest

FALL OVERCOATS, the Finest at \$18. Take your pick for \$18! Those Silk Lined, Wide Wales, formerly \$30, now \$18. Those Beautiful

Kerseys sold for \$25, now \$18. Those Silk Faced Diagonals, worth \$28, now \$18. There ain't many of them, so to be sure of securing your choice come soon before they are all gone.

STYLISH NECKWEAR.

To our numerous Lady Patrons, we would say: Our Department of Clothing for Boys and Children is more worthy of their attention than ever. Complete in every detail, lines numerous and varied, we feel that we have outdone all former efforts in the display we make this year.

The nobby little Jersey Suits are the admiration of all that see them, while the Plush Trimmed Overcoats-size 4 to 10-have induced purchases from ladies which had never before failed to send east when anything was needed for the little fellows. Fully 1,000 pairs of odd pairs for the "little shavers," and Flannel Waists from \$1 upwards.

MILLER HATS.

HARRIS The One-Price Clothier

ST. LOUIS BLOCK,

MAIN STREET.

JUSTICE STILL PREVAILS.

The Voters at Tunnel Precinct Restored to Their Rights as American Citizens.

Judge DeWolfe Issues an Order Compelling the Canvassers to do Their Duty.

An Appeal Taken and a Stay Asked for Which Will be Decided by the Court To-Day.

BUTTE, Oct. 31 .- [Special.] -At the opening of court this morning the court room was well filled by persons evidently anxious to hear the decision upon the mandamus case of McHatton, which has occupied the attention of the court for the past three days. Those who have closely watched the proceedings and understood the law applicable to the case seemed satisfied that the decision of the court could not be otherwise than favorable to the relator. All of the cases of a similar nature decided in other states and which were called to the attention of the court, unequivocally confirmed the position that the canvassing board was a ministerial body, and was devoid of any legal authority to investigate the question of the alleged fraud which it was claimed was perpetrated at precinct 34. Republicans, honest in their convictions and not blinded by party prejudice, without reluctance admitted that the decision vote according to the returns as received by was claimed was perpetrated at precinct 34. reluctance admitted that the decision should necessarily be favorable to the democrats, and that the action of Jack and Hall could not possibly be sustained.

At precisely 9:30 Judge DeWolfe ascended the bench, bearing in his hands the manuscript of the decision which he was about to render in this now famous case. After specimens displayed at the tailor shops, the reading of the minutes had been disposed of preparatory to rendering his decision, the judge said that the time in which he had to prepare his decision in this case was so limited, and the attention that he was able to bestow upon it must of necessity subject it to unfavorable criticism on account of its crudeness in some respects, and he would reserve the right to revise and correct it in respect to phraseology and construction should that, in his judgment, become necessary. The decision in full is as

JUDGE DE WOLFE'S DECISION.

The relator, J. J. McHatton, in his affi davit and petition for the alternative writ of mandamus, alleges, in substance, that, at the election held in this territory, on the 1st day of October, 1889, he was a candidate for the office of district judge of the second judicial district, and received 3834 votes for said office, against his opponent's 3475 votes. That the votes so received by the respective candidates was exclusive of the votes cast at precinct 34 in said county; that at the last named precinct, 171 votes were cast for the relator, and only three votes for the opposite candidate; that if the votes cast at said the relator, and only three votes for the oppo-site candidate; that if the votes cast at said precinct 34 had been counted, the relator would have had a majority of 27 votes, over L. J. Hamilton, the opposing candidate for said office of district judge.

The petition further alleges that the re-

The petition farther alleges that the returns of the vote cast at said precinct 34 were duly returned to the election canvassing board of said county, to wit the said Jack, Hall and Irvine, but they refused to count the same and make abstracts thereof as required by law, and by reason thereof, and unless the same are counted and abstracts thereof made, the relator will be defeated for said office of district judge to which he claims to have been elected. The prayer is for an alternative writ of mandamas to compel the canvassing board to count the votes cast for relator at the pre-cinct named, or to show why they have not

After some preliminary motions as to the form of the action, and a demurrer to the writ, which the court overruled, two of the members of the board, Jack and Hall, filed members of the board, Jack and Hall, filed an answer, in which they set up several dif-ferent causes for not making an abstract of the vote cast at said precinct. The other member of the board, Irvine, also filed a separate answer, in which he alleged his willingness and desire to count the vote of said precinct, and was only prevented from doing so by the refusal of his colleagues to ion him in said count.

oin him in said count. join him in said count.

The question presented for the decision of the court is the sufficiency or insufficiency of the cause shown to justify the action of the majority of the board in rejecting the vote of said precinct.

The causes assigned in the answer may be briefly summarized as follows:

First—They deny that the relator re-ceived 171 votes at precinct 34 and his op-

Second—Deny that the returns from said recinct were sent or received by mail.

Third—Deny that the returns were regu-

ar, and in substantial compliance with Fourth-Deny that the returns contained the proper tally sheets or names of candidates voted for, or the number of votes received by each candidate at full length set forth as required by law; or that they were

returns of said precinct 24, or that the re-turns were certified as required by law. Fifth—Deny that the returns were on proper blanks.

Sixth—Deny that it could be easily ascertained from the returns the number of

votes and for whom cast, Seventh—Deny, that the relator will be defeated for said office by reason of the refusal of the board to count the vote of said

It also sets up several matters as an affirmative defense, in refusing to count the vote of said precinct. Most of this affirmative matter is an amplification, in an affirmative form, of what had been already denied; but, in addition, it also states or alleges, that 174 votes were cast at precinct 34, and that the returns and names of the voters were not written down by the clerks of election, and the certificates to the re-turns, and the attestation of the judges, was

not in conformity with law.

The answer then continues as follows: "That they (the canvassing board) were instrusted by law with the duty of determining what were the returns of the votes from said precinct 24. That, in performing this duty, they examined what purported to be the returns from said precinct, and what were presented to them as such returns, and determined that they were not the returns of the votes at said precinct."

Then follows some allegations in regard to some affidavits obtained by the board which is not deemed necessary, for reasons hereafter mentioned, to consider in this

jurisdiction and powers of the canvassing board, and whether their functions were board, and whether their functions were ministerial, only, or partly ministerial and partly judicial. If ministerial only, the court can compel them, by mandamus, to perform the duties required of them by law; whereas, if they act in a judicial, or in a quasi-judicial capacity, while the court may by this proceeding, compel them to act, it cannot take from them the discretion which pertains to the exercise of all indicial funcpertains to the exercise of all judicial func-tions.

The powers and duties to be performed by the board, as also the persons compri-sing it, are defined by section 1,033, of the fifth division of the revised statutes of Montana, and is as follows:

"After the fifteenth day after the the close of any election held under the provisions of this chapter, or sooner if all the returns shall be received, the chairman of the board of county commissioners, or in his absence any other member of the board, shall, taking to his assistance the probate judge or a justice of the peace, and one other officer of the county, or any county officer, pro-ceed to open the returns and make abstracts of the votes. Such abstracts of votes for delegate to congress shall be on one sheet; the abstract for votes for members of the legislative assembly shall be on another sheet; and the abstract of votes for territo-rial and district officers shall be on another sheet; and the abstract of votes for county and township officers seall be on another

Here, it will readily be seen, is nothing which partakes, in the slightest degree, of the exercise of judicial or discretional authority. The only power conferred is, to "open the returns and make abstracts of the votes"; and what this means is clearly manifest from the succeeding clause of the section which directs that the abstracts for delegates to congress, for members of the legislature, and for territorial and district officers, and for county and township offices, shall all be on separate sheets of pa-

vote according to the returns as received by them, if the returns were sufficient to enable them to do this; and, when this was done, their duty, as their power, was at an end. Nothing whatever is said in the section referred to, or in any other section of the law, as to their duty of inquiring into the legality or the sufficiency of the returns made by the judges of election; nothing as to the legality or illegality of any or all the votes embraced in the returns. These and all kindred questions are by the election left to other and different tribunals, and to an entirely different form of procedure to what is conferred on this board. That this is, the correct rule, applicable to boards constituted like our election canvassing board is settled by numerous, it might almost be said, innumerable authorities. Many of them are collated by McCreary in his work on elections, in sections 256, et his work on elections, in sections 226, et seq., where the rule and the authorities in support of it can be readily found; but space and scanty time in which to prepare this opinion prevents a minute reference to

them.

It is proper, however, to refer to a decision of our own supreme court, in which it enunciates the same principle, in language most clear and empatic. In the case of Chumasero vs. Potts, 2 Mont., 270, speaking on the very question of the power of these canvassing boards, and in a proceeding in mandamus like this, the court, by Judge Knowles, says:

"This is a question that the canvassers of the return of the abstracts of the votes had nothing to do with. It was no part of their

the return of the abstracts of the votes had nothing to do with. It was no part of their duly to determine what was the true and legal vote cast. What they were required to do was to determine what the abstracts of the votes returned to them showed upon the votes returned to them showed upon the plaintiff's application for a peremptory writ of mandate herein, and upon the showed upon the plaintiff sapplication for a peremptory writ of mandate herein, and upon the showed upon the plaintiff sapplication for a peremptory writ of mandate herein, and upon the showed upon the plaintiff sapplication for a peremptory writ of mandate herein, and upon the showed upon the plaintiff sapplication for a peremptory writ of mandate herein, and upon the showed upon the plaintiff sapplication for a peremptory writ of mandate herein, and upon the showed upon the plaintiff sapplication for a peremptory writ of mandate herein, and upon the showed upon the plaintiff sapplication for a peremptory writ of mandate herein, and upon the showed upon the plaintiff sapplication for a peremptory writ of mandate herein, and upon the plaintiff sapplication for a peremptory write of mandate herein, and upon the plaintiff sapplication for a peremptory writer of mandate herein, and upon the plaintiff sapplication for a peremptory writer of mandate herein and upon the plaintiff sapplication for a peremptory writer of mandate herein and upon the plaintiff sapplication for a peremptory writer of mandate herein and upon the plaintiff sapplication for a peremptory writer of mandate herein and upon the plaintiff sapplication for a peremptory writer of mandate herein and upon the plaintiff sapplication for a peremptory writer of mandate herein and upon the plaintiff sapplication for a peremptory writer of mandate herein and upon the plaintiff sapplication for a peremptory writer of mandate herein and upon the plaintiff sapplication for a peremptory writer of mandate herein and upon the plaintiff sapplication for a peremptory writer of mandate herein and this subject. As they have no right to go behind these abstracts, they have no right to assign, as a reason for not canvassing the true abstracts, that there was an illegal and

udulent vote behind them.
'If such an issue was allowed to be raised when the question was, Whether an elec-tion officer should canvass or not election returns, every single one of them, down to the judges of election, might raise the same issue, and there would be a clog upon our whole political system. Officers, whose duty by law is to canvass returns, have no other legal duties than these to perform, and as it would not be within the province of the proceedings in mandamus to compel them to go behind the returns and determine the actual legal vote cast, so they can-not set up what in law does not concern them, as officers, as a defense when they are required to do what does concern them,

s officers, under the provisions of law."

Language more apt and pertinent to the case now under consideration could not be used. I cannot add to its force, or hope to imitate its terseness and precision. The soundness of the legal principle it states is equalled by the clearness and precision with which the principle is stated. But, if there were no decisions, either of our own or other courts, on this question, the persons composing, or who may, under our statute, com-pose a canvassing board, shows, I think conclusively, that it was never the intention of the legislature to confer upon them any power but the plain and simple one of count-ing the votes as shown by the returns, and making abstracts thereof. The board itself is floating and transitory, and may be com-posed of three out of any number of county officers. The chairman of the board of county commissioners, or, in his absence, any member of the board of county com-missioners, calling to his assistance the probate judge, or any justice of the peace of the county, and one other county officer, constitutes this board. The selection of the board may devolve on any one of the three men who are at the time county com-

three men who are at the time county com-missioners, and this commissioner has a carte blanche to select whoever else he pleases to act with him, provided only, that one of the persons selected is a probate judge or a justice of the peace, and the other some county officer.

Can it be that the legislature ever intend-ed to confer on a board, chosen in such a manner, the important and delicate duty of deciding on the validity or invalidity of deciding on the validity or invalidity of election returns, and, in their discretion, of counting or rejecting the votes cast at an election? The proposition is too absurd for belief, and to propound the question is to answer it. It cannot be that this, the most delicate of all public duties, and the one that comes nearest to the rights and interest of every citizen, is thus left to an uncer-tain and shifting board, composed like an election canvassing board. If the principle I have stated, then, is correct, that the duty of the canvassing board is simply to make abstracts of the votes, as shown by the returns, it obviates any necessity of inquiring whether the facts set up in the answer of the majority of the board are true or not. It was not for them to say or determine whether the clerks of election performed their duty as defined by the law or not, or whether the certificates or attestations made by the judges and clerks were in due form of law, or whether the clerks, with their own hands, entered the names of the voters on the tally sheets, or suffered some one else to do it for them, or, finally, whether the returns of the election were transmitted in the mode prescribed by the statute, or reached them in a different way. Some, or all of these may be important questions, and the law provides a method, as also a tribunal, in which they may be raised and decided; but they are not for the determinadecision.

In deciding upon the sufficiency of the cause here shown, it is necessary, in the cause here shown, it is necessary, in the first place, to consider and determine the deciding the language of Judge Knowles, in the case of Chumasero vs. Potts, "officers whose duty by law is to canvass returns have no

other legal duties than these to perform and, as it would not be within the province of the proceedings in mandamus to competition to go behind the returns and determine the actual legal vote cast, so they cannot set up in law what does not concern them as officers, as a defense when they are required to do what does not concern them as officers under the provisions of law." The answer in one place states that 174

cotes were cast at precinct 34. I am at a except by the returns which a majority of the canvassing board rejected. If it ap-pears by the returns it follows from necessity that the returns were sufficient to en able the canvassing board to ascertain th vote cast, and for whom cast, and this was sufficient to enable them to make the abstract of the votes required at their hands, this admission of the answer also regatives the allegations that it could not be "easily" determined, from the returns the number determined, from the returns the number of votes cast, and for whom cast. Whether "easily" ascertained or not, it seems to have been ascertained for the purpose of a pleading, and as a defense against what the law enjoins as a public duty; and, if useful for such a purpose, why could not the knowledge thus acquired be as well applied in making abstracts of the votes cast at the precipet in apostion?

Precinct in question?

No reason has been stated, or can be im No reason has been stated, or can be imagined, why, if the vote could be ascertained from the returns, it should not be counted by the canvassing board. Many other interesting questions have been presented in the argument of the case, but want of time prevents their consideration. It follows from what has been said that,

in the judgment of the court, the causes shown in the answer are not sufficient to justify the refusal of the board of canvassers to obey the alternative writ heretofore issued. It is therefore ordered that the peremptory writ of mandamus be issued to William M. Jack, William E. Hall and Caleb E. Irvine commanding them to make the abstract of the votes cast for said relator as directed in the alternative writ here

Scarcely had the court concluded the reading of the decision, which was listened to with rapt attention, when Mr. Campbell announced that he took exceptions to the ruling of the court and gave notice of appeal. The attorneys for the relator stated that they had prepared a peremptory writ of mandate, which they desired the court to sign, and no objection being made to this to the right of appeal was taken up. by either Knowles or Campbell, this was done with the understanding, however, that it would not be placed in the hands of an officer for execution until the matter touching the right or ability to appeal had been disposed of by the court. The peremptory writ of mandate is as follows:

PEREMTORY WRIT OF MANDAMUS.

In the district court of the Second Judicial district of the Territory of Montana in ang for the county of Silver Bow, John J. McHatton, ex, rel., vs. William M. Jack, William E. Hall and Caleb E. Irvine, board

William E. Hall and Caleb E. Irvine, board of canvassers of Silver Bow county.

To William M. Jack, William E. Hall and Caleb E. Irvine, the board of canvassers in and for the county of Silver Bow, and territory of Montana, for the election held on the first Tuesday of October, 1889, for the office of district judge for said county, and for the other offices necessary in the proposed state of Montana, and for the adoption or rejection of the constitution of the said proposed state of Montana, greeting:

writ of mandate herein, and upon the pleadings and proceedings therein, the fol-lowing judgment was this day rendered and

"This cause coming on for hearing upon the relator's motion for judgment upon the petition, order and writ, and answer and return of defendants. It is ordered, ad-judged and decreed that said defendants had no power or authority to exclude said had no power or authority to exclude said precinct No. 34, and that their action therein was illegal and void; and that the returns, including said precinct, constitute the true and correct result of said election; and that said relator have his peremptory writ of mandate as prayed for in his petition; and recover his costs and disbursements in this behalf expended this 31st day of October, 1889." And, Whereas, it appears that the said re-lator is entitled to said writ, and that he is

a resident and citizen of the county of Silver Bow, territory of Montana, and a duly qualified elector thereof; that on the first Tuesday of October, 1889, there was a general election held in said county of Silver Bow, and thoughout all the other counties of the said territory for the office of district judge and for members of the general as-sembly and for a full set of state, county, district and township officers, and for the adoption or rejection of the constitu-tion of the said proposed state of Montana, under the provisions of an act of congress of February 22, 1889, and denominated "An act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitu-tions and state governments, and to be admitted into the union on an equal footing with the original states, and to make donawith the original states, and to make donations of public lands to such states," and usually denominated "The Enabling Act;" that the said relator, John J. McHatton, was a candidate upon the democratic ticket at said election for the office of district judge of the second judicial district, composed of the said county, and Levi J. Hamilton was the republican candidate at said election for said office; that you are the board of canvassers constituted for the purpose of canvassing the votes received by the candidates for the office of district judge of said second judicial district, of the said county, and for all the other officers for the proposed state of Montana, cast at said election on the first Tuesday of October, 1889; that you counted the vote cast at the said election at all precincts of the said county, except the counted the vote cast at the said election at all precincts of the said county, except the vote cast at precinct No. 34 of the said county, and this you refused to count; that, by the returns so counted by you, exclusive of precinct 34, said relator received 3,334 votes for the office of district judge, and his converse the said Hawilton. votes for the office of district judge, and his opponent, the said Hamilton, received 3,475 votes for said office; that the relator received 171 votes at precinct No. 34, and his opponent, the said Hamilton, received three votes at said precinct; that, exclusive of said vote at said precinct; that, exclusive of said vote at said precinct, that it under the relator received a majority of twenty-seven votes; that it was your duty, as said board of canvassers to count the returns of the various voting precincts of the board of canvassers to count the returns of the various voting precincts of the said county, and to make abstracts of the votes thereof; that the clerk of the county commissioners of Silver Bow county received by mail the returns of said precinct No. 34, duly sealed and addressed to him; that the said clerk duly handed to the board of canvassers, the returns thus received, that the said returns were duly opened by you, while sitting as such board opened by you, while sitting as such board of canvassers, engaged in the discharge of your official duties, and found to be regular, and in substantial compliance with the requirements of the law to wit: The said returns contained the proper tally sheets, extensions, names of the candidates voted for, the number of votes received by each candi-date, extended at full length in words, duly

certified by the judges and clerks who held the said election; that the said tally sheets and returns were upon proper blanks, furnished by the clerk of the board of county commissioners, for the election throughout the county, for the purpose of making such returns; that from an inspec-tion of said returns it could be easily ascertion of said returns it could be easily ascer-tained the number of votes cast, and for whom cast; that there was no question as to the genuineness of the signatures of the judges and clerks of said election to said return; that you, in disregard of your plain duty to county said votes, refused to do so, although relator demanded that you should count them, and you refused to make them a part of the abstract of votes for said of fice of district judge, and for all other of-fices for the said proposed state of Mon-tana, and that, by such illegal refusal, re-lator will be defeated in his election to said office; that relator has no plain, speedy and adequate remedy in the ordinary course of

Therefore, we command you, that, imme

Therefore, we command you, that, immediately after the receipt of this writ, you assemble and count the votes of said precinct No. 34, and all the votes of all the other precincts in said county, and make all proper and legal abstracts thereof for said office of district judge.

Witness, The Honorable Stephen De-Wolfe, judge of the district court of the second judictal district of the territory of Montana, in and for the county of Silver Bow, in the city of Butte, in the said county of Silver Bow, and the seal of the said court, on this 31st day of October, A. D., 1889.

STEPHEN DEWOLFE, Judge.

The attorneys for relator considered that no appeal could be made in this case and no stay of proceedings could be secured under the law. Both sides being desirous to collate authorities and anxious to obtain time to prepare arguments bearing upon the issues which a discussion of this question would involve, a recess was taken un-

The court again convened at 1 o'clock, but owing to the absence of Judge Knowles, Mr. Campbell was unwilling to proceed in his absence. A recess was taken for fifteen minutes, so that an opportunity might be offered to Judge Knowles to present an appearance. Upon his arrival the question as MR. KIRKPATHICK'S ARGUMENT.

Mr. Kirkpatrick—We contend that in this case no appeal can be taken which would operate as a stay of proceedings. In the first place we maintain that no authority is rested in Messrs. Campbell and Knowles to prosecute this appeal, because no action has been taken by the canvassing board, officially looking to the taking of an appeal in this case, and before this can be done, and before the initatory steps are here taken to make this appeal, it is necessary to show that by some action of the canvassing board that by some action of the canvassing board an incentive to take this step must have been acted upon and authorized. I have here the affidavit of Caleb E. Irvine, one of the members of the canvassing board, in which he sets forth the facts that the canvassing board disbanded after a majority of the board had refused to accept or make abstracts from the returns of precinct 34, and since that time no meeting of them has been had; that undoubtedly after the disbandment of the board, one of its members, Wm. M. Jack, left the territory and has not returned thereto since, and that members, Wm. M. Jack, left the territory and has not returned thereto since, and that he is now beyond the jurisdiction of the court. That at no meeting of the board was this matter considered or acted upon; that he as a member of the board, did not desire an appeal taken from the judgment of the court, but on the contrary he was satisfied with the decision of the court and would carry the mandate of the writ into execution to so for an expectation to so for an expectation to so for an expectation to the court and would carry the mandate of the writ into xecution in so far as he was affected. We nold, continued Mr. Kirkpatrick, that under these circumstances and under the aver-ments in this affidavit, that there is here vanting the power or authority to prosecute this appeal.

FOR THE OTHER SIDE.

Mr. Kirkpatrick was followed by Mr. Campbell, who stated that he had been practicing law for the past fifty years and hat this was the first time that his authority to appear in a court of justice and take such steps as the exigencies of a case intrusted to him demanded, was questioned. In this case he desired to say that authority was conferred upon him by Jack and Hall individually, when he was retained as counsel by them and at his request he was sworn so that these statements might be made under oath. I claim, continued Mr. Campbell, that this authority is sufficient and ample enough to authorize the action which we have taken in this case in the

which we have taken in this case in the matter of appealing.

Judge Knowles next followed and called attention to a number of authorities, principally decisions of the supreme court of California, in which an appeal lay from a peremptory writ of mandamus under a statute similar to the Montana one. He controverted the correctness of the proposition advanced by Mr. Kirkpatrick that it required some action of the board, or a ma-jority thereof to authorize legal action to be taken involving the official action of its members, and that under the statutes of this territory providing that certain speci-fied persons should perform certain duties, such persons acting in conjunction did not constitute a board. The right of appeal under the law was unquestioned, and such being the case, a stay of proceedings was secured by the statute until the case could secured by the statute until the case could be heard and determined on appeal. This appeal could be taken at any time within twelve months after the date of the rendi-tion of the judgment upon the filing of an indemnity bond of \$300, and this bond, duly executed, they now had in court and were ready to file.

MR. TOOLE'S ADDRESS.

Mr. Toole made the closing argument in behalf of the relator. He said that if the position taken by counsel for respondents was correct, then it was in the power of any canvassing board to deprive any one elected to office of the right to enter upon the duties of that office by appealing, as in this case, and filing this indemnity bond. Mr. Toole then cited numberless cases which were directly in point, holding that an ap-peal would not lie in one of this kind, and showed by reference to the statutes of Cali-fornia that the decisions of the supreme court of that state, upon which so much recourt of that state, upon which so much re-liance had been placed by Judge Knowles, were based upon a statute which expressly provided that appeals would lie in man-damus cases and that until the enectment of the statute, it was uniformly held by the supreme court of the state that appeals were not allowable. He said that there would be no session of the supreme court of the territory until January, and the \$300 bond would not be sufficient security to the relator for the emoluments of the office to which he had been elected, and should the judgment of this court be should the judgment of this court be affirmed, his only redress would be against his opponent, who, during that time, would receive the emoluments of the office. Mr Toole then proceeded to discuss at length the legal status of the canvassing board, and insisted that no official action had been taken by the board regarding this appeal proceeding. Mr. Jack was beyond the jurisdiction of the court and not amenable to its process, and it could not for a moment be maintained that any action taken by him

Continued on Eighth Page.

DAN COUGHLAN'S THREAT

Witnesses in the Cronin Trial Tell How the Doctor's Life Was

The Man From Whom the Carlson Cottage Furniture Was Bought On the Stand.

Why Beggs Objected to Cronin-Sensational Story of a Spy Being in the Clan-na-Gael.

CHICAGO, Oct. 31.—The proceedings in the Cronin case this morning were uninteresting. Two witnesses testified to hearing defendant Coughlan say "there is a Catholic on the North side who will get done up if he don't keep his mouth shut."

Furniture salesman Hatfield retold the story of selling the furniture to J. B. Simonds, which was subsequently found in the Carlson cottage. The chief point of interest developed was that it was furniture in common use and there were no marks on it to perfectly establish its identity. Hatfield also identified the trunk in which

Cronin's body was carried away as identical in appearance with that sold to Simonds. When court resumed its session the jury was excluded while the matter of striking out McGary's evidence was discussed. The court finally decided to exclude all talk in regard to the former attack on Cronin. regard to the former attack on Cronin. This was not satisfactory to the defense, but after some talk the trial was resumed. John W. Samson testified that about two years ago Coughlin tried to hire him to "slug" Dr. Cronin. On cross-examination Samson admitted Coughlin had arrested him three or four times, once for robbery; that he had been convicted of passing counterfeit money; that he is a gambler by profession.

Joseph C. O'Keefe, Cronin's tailor, said he attended the meeting of Camp 20 in September, 1888, and after it had a conver-sation with Beggs about Cronin and Alex-ander Sullivan. Beggs had displayed aversion to Cronin, and sa d Cronin was not the proper man to put on the trial committee to try Alexander Sullivan. He objected to Cronin particularly because the doctor was

the enemy of Sullivan.

Edward Thockmorton, Aaron Goldman and James M. Marshall, connected with a real estate office, testified regarding the renting of the flat at 117 Clark street to "J. B. Simonds" Court then adjourned till

An afternoon paper says soon after Cro-nin's disappearance the doctor's friends put spies upon Camp 20, and that a man was concealed in the hall during some of its meetings and took notes of its proceedings.

meetings and took notes of its proceedings.

Winnipeo, Oct. 31.—Assistant States Attorney Baker, of Chicago, has elicited new, and if true, important information from Gilette, a late fellow prisoner of Martin Burke. Burke said the plot had been to decoy Cronin from his house by a woman. Afterwards Coughiin changed the plan and decoyed Cronin by means of O'Sullivan's business card. Burke told Gillette, the woman in question, kept furnished lodgings on North Clark street in the woman in question, kept furnished lodgings on North Clark street in Chicago. Burke mentioned as associated with himself, Coughlin, Cooney and O'Sullivan. The intention was to sink the body in the lake, but the confederate who was to meet them with a boat failed to keep his appointment. Gillette, says Burke, went twice to a lawyer's office on Dearborn street, Chicago, and got money for doing the job. Cronin's clothes were brought to Winnipeg a hidden there.

Gillette told Baker how Burke told him in detail of the murder; how Cronin was clubbed as he stepped inside the cottage door and how they took the body to the door and how they took the body to the lake and not finding the boat there, threw it in. Fearing, however, it would wash up on the beach, it was taken back, placed in the trunk and afterwards put in the catch basin. Gillett's story is very circumstantial. Baker is inclined to believe it straight, in spite of the apparent improbability of Burke having confessed.

WANAMAKER FIXES THE RATES. Thirty-Three Per Cent, Reduction Made By the Postmaster General.

Washington, Oct. 31,-Postmaster-General Wanamaker to-day made public an order fixing the rate for telegraphic service for the government for the present year. Day messages not exceeding ten body words are to be sent not exceeding 400 miles for 10 cents and 1/2 cent extra for each word in excess of ten. Over 400 and less than 1,000 miles 15 cents for the first ten words and three-fourths of a cent for each word in excess. Over 1,000 miles one-half a cent added to the 1,000 mile rate; night messages not exceeding twenty words 15 cents for all distances and one-half a cent extra for each word in excess of twenty.

extra for each word in excess of twenty.

It is provided that if at any time during the year any telegraph company shall charge the public a less rate than the above, the government rate shall be reduced to the same basis. These rates do not include cipher signal service messages, which are fixed at 2½c for each word to be sent over circuits to be dropped at designated offices.

The letter of the postmaster-general to Dr. Green, president of the Western Union Telegraph Company, is also made public, in the course of which Wanamaker says that while he cannot admit Green's claim that privileges accorded telegraph compan-

that while he cannot admit Green's claim that privileges accorded telegraph compan-ies have never been of any value to them, he is impressed by what Dr. Green has ad-vanced in opposition to the application of press rates to government business; and consequently revised his order to the rates as adopted. He proposes the appointment of a commission of five suitable persons to thoroughly look into the matter and make recommendations for a scale of rates for the next succeeding fiscal year. next succeeding fiscal year.

NEW YORK, Oct. 31.—President Norvin Green, of the Western Union, says the rates fixed by the postmaster-general are below cost, but is unprepared to say what action the company will take till after the meeting of the executive committee next Wednes-day. The reduction from the old rates averages 33 per cent.

Accused of Theft,

Washington, Oct. 31.—Lawrence Perry Dawson, son of ex-Commissioner Dawson, of the bureau of education, has been arrested on the charge of larceny of \$91 worth of postage stamps from the bureau where he has been employed. His friends assert he will be able to clear himself.

Knocked Out by McCoy. Los Angeles, Oct. 31 .- Pete McCoy, of Boston, knocked out Cd Cuff, of San Francisco, in two rounds to-night.